

Gamma Law, P.C.
Duy Thai, SBN 157345
Email: dthai@gammalaw.com
Kenneth J. MacArthur, SBN 175906
Email: kmacarthur@gammalaw.com
One Sansome Street, Suite 3500
San Francisco, California 94104
Tel.: 415.296.9927
Fax: 415.901.0512

Attorneys for Applicants
Aniplex, Inc., and Toho Co., Ltd.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re Ex Parte Application of
Aniplex Inc., a Japanese corporation, and
Toho Co., Ltd., a Japanese corporation,
Applicants.

Case No.:

**DECLARATION OF KOJI HIGASHI
IN SUPPORT OF APPLICANTS' *EX
PARTE* APPLICATION FOR AN
ORDER PURSUANT TO 28 U.S.C. §
1782 AUTHORIZING DISCOVERY
FOR USE IN FOREIGN
PROCEEDINGS**

1 I, Koji Higashi, declare as follows:

2 1. I am Chief Manager of the Corporate Management Group Legal
3 Department at Toho Co., Ltd. (“Toho”). My job responsibilities include the general legal
4 affairs of the company, as well as protecting the intellectual property rights of the content
5 produced by the company, and responding to infringements of those rights. Our company
6 has retained Hiroyuke Nakajima to advise us on the matters addressed below, and to
7 represent us in legal proceedings in Japan about them. I am working with him as the
8 person in charge of this matter for Toho.

9 2. I have personal knowledge of the facts set forth in this Declaration and, if
10 called as a witness, could and would testify competently to such facts under oath.

11 3. I submit this declaration in support of the Ex Parte Application by
12 Applicants for an Order Pursuant to 28 U.S.C. § 1782 Authorizing Discovery for Use in
13 Foreign Proceedings (hereinafter “Application”).

14 4. Applicant Toho is a Japanese corporation that engages in the business,
15 among others, of producing and releasing “anime” TV series (i.e., various animated,
16 Japanese-language television series). The intended initial audiences for these anime TV
17 series are television viewers in Japan, where such anime TV series are popular with those
18 in the age groups from teenagers to those in their forties.

19 5. Each such anime TV series, each episode of each anime TV series, and
20 each image in each episode, are protected by Japanese copyright law. Toho is the holder
21 of the Japanese copyright of its anime TV series.

22 6. As described in more detail below, Toho has been the victim of copyright
23 infringement as to its anime TV series, via posts made by anonymous twitter users on X
24 in which leaked images from unreleased episodes (or unreleased versions of episodes) of
25 the anime TV series were posted without authorization from the applicable Applicant.

26 7. The background these infringements is as follows. Typically, each
27 episode of the subject anime TV series was released in the following fashion:

28

- a. An episode of an anime TV series has a “release date.” The episode, and the images in the episode, are not publicly available until the release of the episode on the release date.
- b. On an episode’s release date, the episode is first released nationwide in Japan on broadcast television. The official animation broadcast release is made at a set time, agreed to in advance by the broadcast television stations, and identified in advance to their viewers.
- c. After the broadcast release, the episode is released nationwide in Japan on streaming services (e.g., Netflix, Amazon Prime Video, and Hulu). The official animation streaming release is made at a set time agreed to in advance by the streaming services, usually immediately after the conclusion of the television broadcast of the episode, and that time is identified in advance by the streaming services to their viewers.
- d. In order that the broadcast TV stations, and the streaming services, can release the episode at the applicable release date and time, each episode is made available to the broadcast TV stations and streaming services in advance of the release. However, the broadcast TV stations, and the streaming services, do not have authorization from Applicants to release an episode, or frames from an episode, to the public prior to the applicable official release date and time.

8. Toho was able to identify the infringements detailed below because the subject images were posted on X prior to the subject episode’s release date and time, and the postings were therefore unauthorized and an infringement. These infringing postings on X were discovered by those in our legal department, including myself, and have since been preserved as evidence. After discovery of the posts, we consulted with the Content Overseas Distribution Association (“CODA”), a rights- holders’ organization to which many Japanese animation companies belong, because of the need for legal procedures in

order to identify the infringers. CODA is a well-known, Japanese government-supported, rights-protection organization with a track record of exposing cases of infringement of Japanese manga and anime rights. Our legal department and CODA checked the official release dates and times, and found that the infringing postings were made prior to those official release dates and times, as identified below. Therefore, we believe that the posters somehow obtained the data of the anime episodes prior to the official releases, and illegally posted the infringing contents. Since I was part of the above investigation, I can speak with confidence that these infringing postings were illegal myself.

Anonymous Twitter Users Who Infringed Toho's Japanese Copyright Rights

9. One of Toho's anime-TV-series is "Jujutsu Kaisen."

10. The official broadcast release date and time for the 30th episode (the "Shibuya Incident") of the second season of Jujutsu Kaisen was August 31, 2023 at 10:56 p.m. (Japan time), as stated in the official announcement on X, a true and correct copy of which is attached hereto as Exhibit 1.

11. The Shibuya Incident episode contained a new opening sequence for the Jujutsu Kaisen series. Attached hereto as Exhibit 2 are true and correct copies of official Toho images from that new opening sequence in that episode.

12. Attached hereto as Exhibit 3 are true and correct copies of official Toho images from the main body of the Shibuya Incident episode.

13. Anonymous twitter user "@WERLeaks" infringed Toho's Japanese copyright rights on August 31, 2023. Specifically, attached hereto as Exhibit 4 is a true and correct copy of a twitter post made by user @WERLeaks on X at 10:15 p.m. (Japan time) on August 31, 2023 (i.e., before the official release time for the Shibuya Incident episode of 10:56 p.m. that day), at <https://twitter.com/WERLeaks/status/1697236730087100617>. That twitter post contains an image matching one of the official images in Exhibit 2 hereto, from the Shibuya Incident episode.

14. Anonymous twitter user “@IDuckyx” also infringed Toho’s Japanese
copyright rights on August 31, 2023. Specifically, attached collectively hereto as Exhibit
5 are true and correct copies of two twitter posts made by user @IDuckyx on August 31,
2023, one at 10:39 p.m. (Japan time), and one at 10:55 p.m. (Japan time), each before the
official release official release time for the Shibuya Incident episode of 10:56 p.m. (Japan
time) that day. The first post was posted at
<https://twitter.com/IDuckyx/status/1697242594550698444>, and the second post was
posted at <https://twitter.com/IDuckyx/status/1697246744453824897>. Each of the two
posts contains images matching official images in Exhibits 2 or 3 hereto, from the
Shibuya Incident Episode.

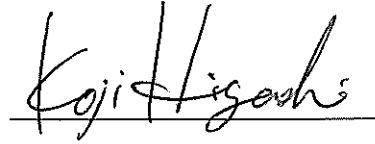
15. The official broadcast release date and time for the 31st episode
 (“Kaigyoku / Gyokusetsu”) of the second season of Jujutsu Kaisen was September 7,
2023 at 11:56 p.m. (Japan time), as stated in the official announcement on X, a true and
correct copy of which is attached hereto as Exhibit 6.

16. Attached hereto as Exhibit 7 are true and correct copies of official Toho
images from the main body of the Kaigyoku / Gyokusetsu episode.

17. Anonymous twitter user “@DonutW” infringed Toho’s Japanese
copyright rights on September 7, 2023. Specifically, attached collectively hereto as
Exhibit 8 are true and correct copies of two twitter posts made by user @DonutW on X
on September 7, 2023, one at 8:33 p.m. (Japan time) and one at 10:56 p.m. (Japan time) -
- i.e., both posts were before the official release time for the Kaigyoku / Gyokusetsu
episode of 11:56 p.m. (Japan time) that day. Each of the two posts contains images
matching the official images in Exhibit 7, from the Kaigyoku / Gyokusetsu episode.

18. I provided Mr. Nakajima with the above evidence of infringement in order
to pursue legal claims against the infringers.

1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct, and that this declaration was executed on June 5,
3 2024.

A handwritten signature in black ink, reading "Koji Higashi", written over a horizontal line.

Koji Higashi

Exhibit 1

X

Home

Explore

Notifications

Messages

Grok

Lists

Communities

Premium

Profile

More

Post

『呪術廻戦』アニメ公式 @animejujutsu

TVアニメ『呪術廻戦』第2期「渋谷事変」キービジュアル公開!!

最後に笑うのは、人かー呪いかー

「渋谷事変」は8/31(木)23:56よりMBS/TBS系列全国28局にて放送開始!!


jujutsukaisen.jp

#呪術2期 #JujutsuKaisen

Translate post



Post



11:59 PM · Aug 24, 2023 · 9.9M Views

340 61K 206K 1.9K

Post your reply

AXE @AXE · Aug 25, 2023 we win 1 3 41 49K

Show replies

Jeremy @OnikaTheMilf · Aug 25, 2023 wow this is a win for us 715

Ramenx @RamenX1987 · Aug 25, 2023 Damn no Yuta 1 4.8K

Grendz @Grendz_com · Aug 25, 2023 

Search

Relevant people

『呪術廻戦』アニメ公式 @animejujutsu Follow

TVアニメ『呪術廻戦』の公式X（旧Twitter）。続編「#死滅回游」制作決定!!TVアニメ第1期／第2期、『劇場版呪術廻戦 0』は各公式HPに記載の配信PFにて配信中!そして、Blu-ray & DVDも発売中!推奨ハッシュタグ：#呪術廻戦 #劇場版呪術廻戦0 ※原則個別リブライは行っておりません。

What's happening

#This_is_おいしいZERO クイズに正解した1000人に〇〇が当たる! ? Promoted by お口の恋人 ロッテ/LOTTE【公式】

Trending in Japan 作者の顔 18.9K posts

Technology · Trending LINEの新機能 13.8K posts

Trending in Japan 老後2000万円問題 2023 Trending with 龍空トレード

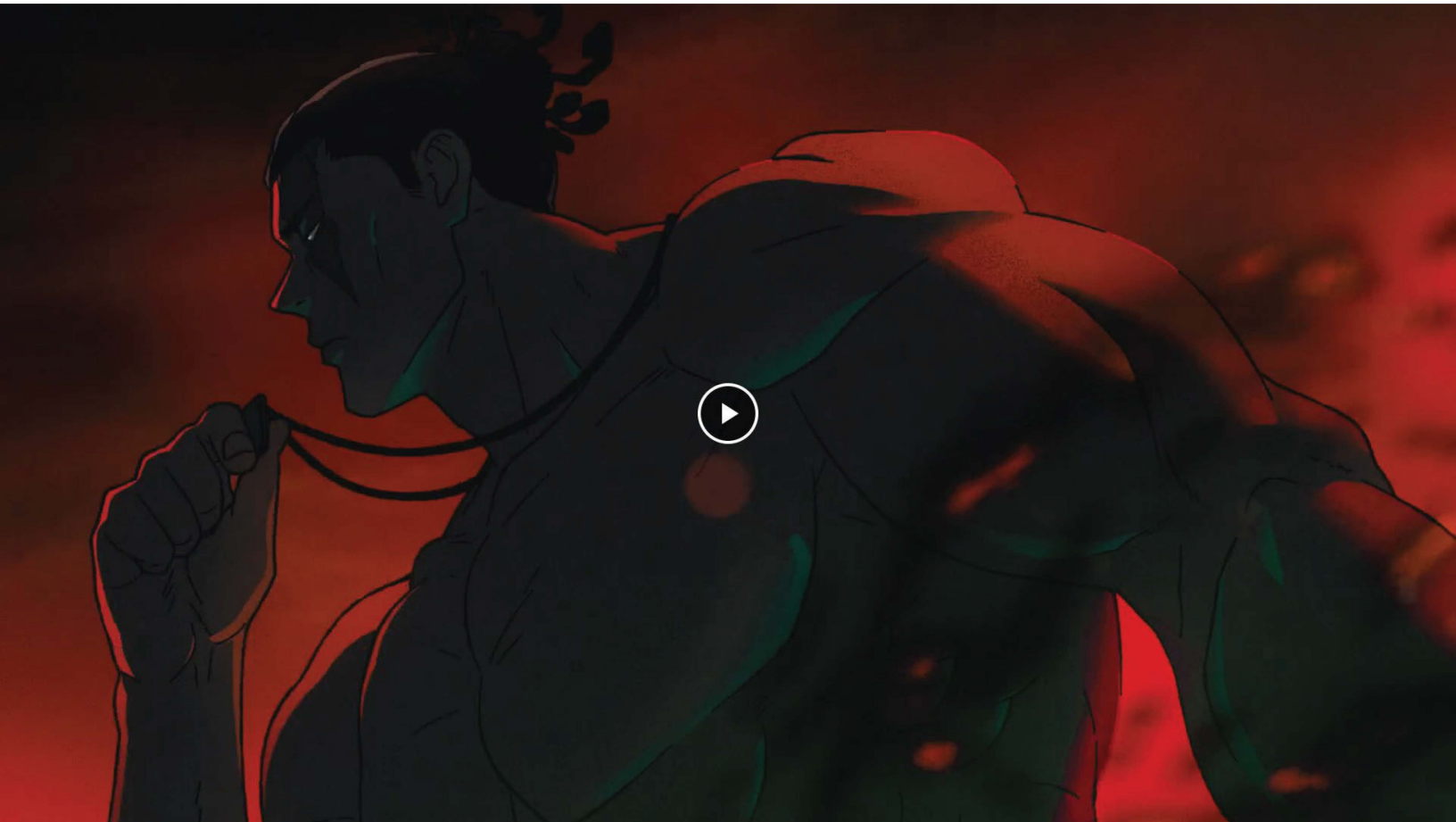
News · Trending 軟禁状態 Trending with 異物混入, 大塚食品

Show more

Terms of Service Privacy Policy Cookie Policy Accessibility Ads info More ... © 2024 X Corp.

Exhibit 2











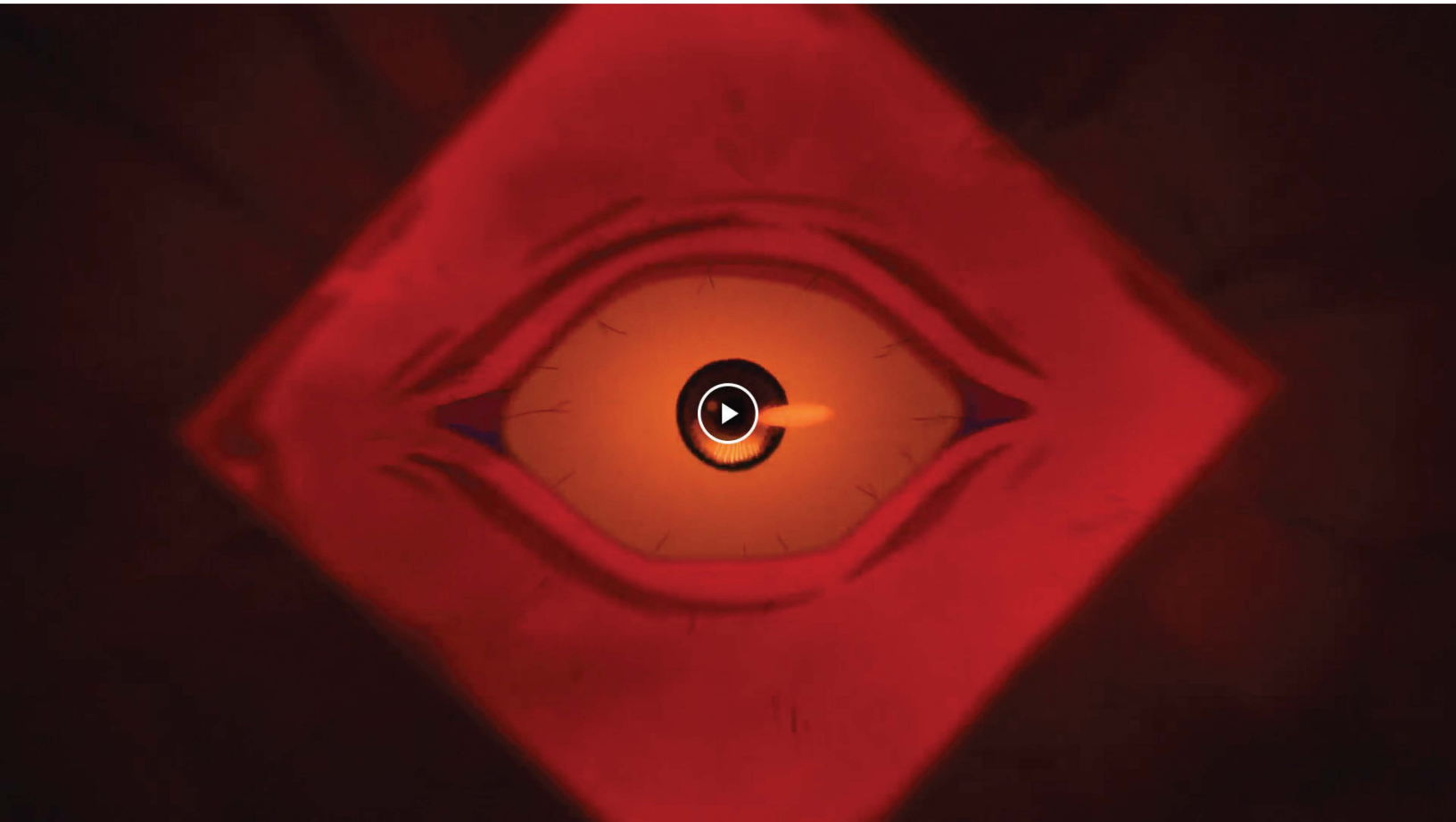
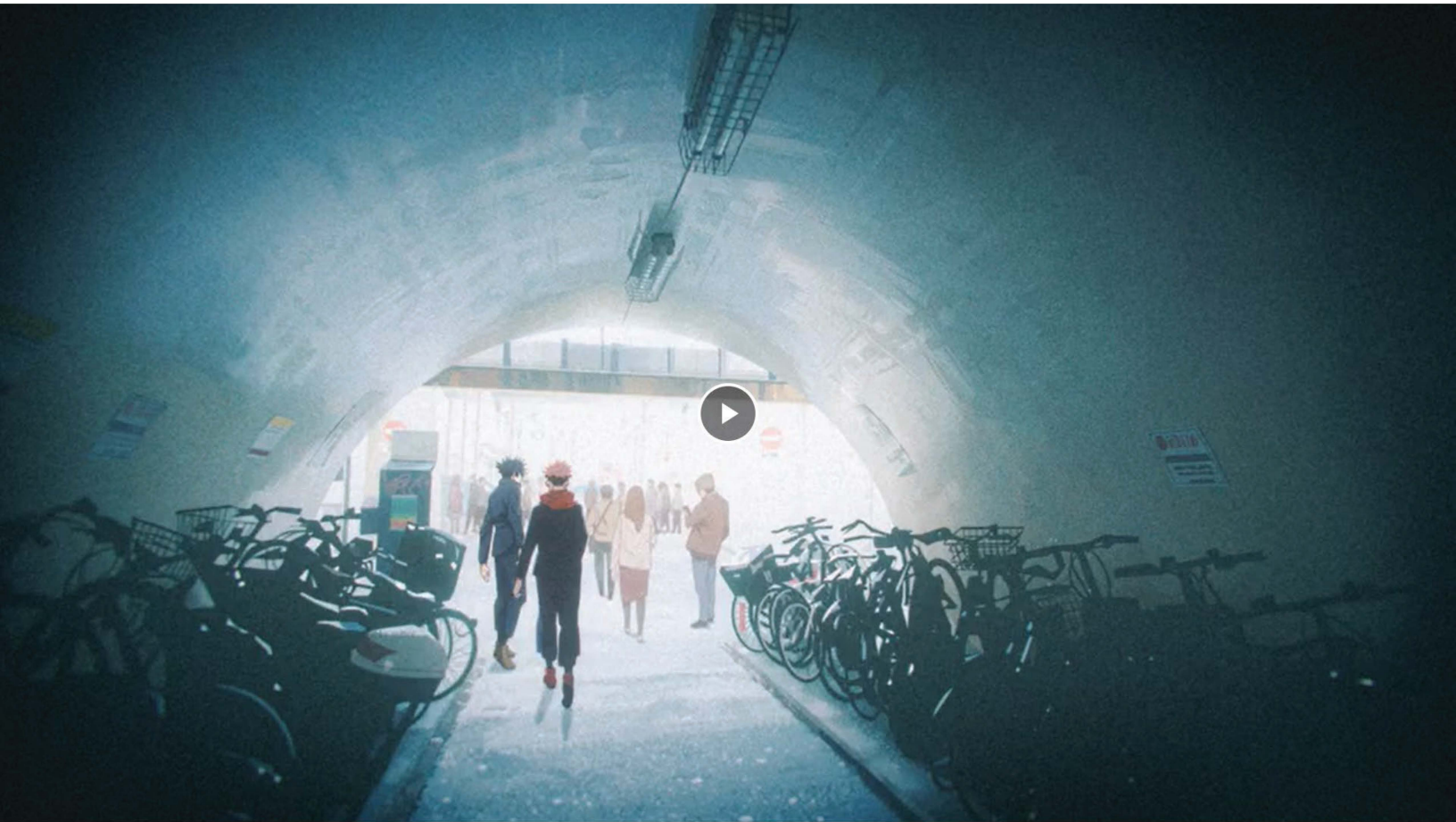
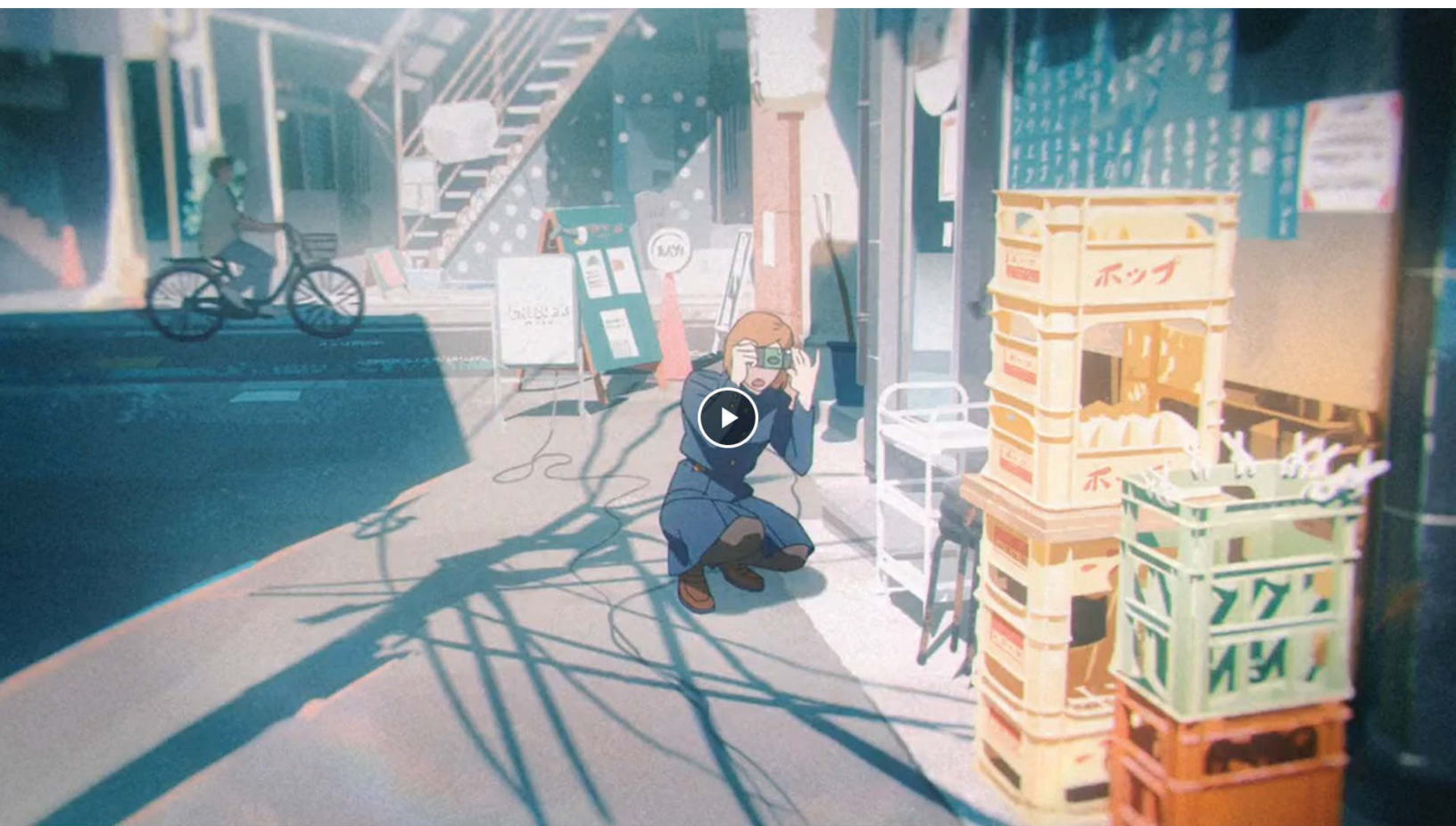


Exhibit 3







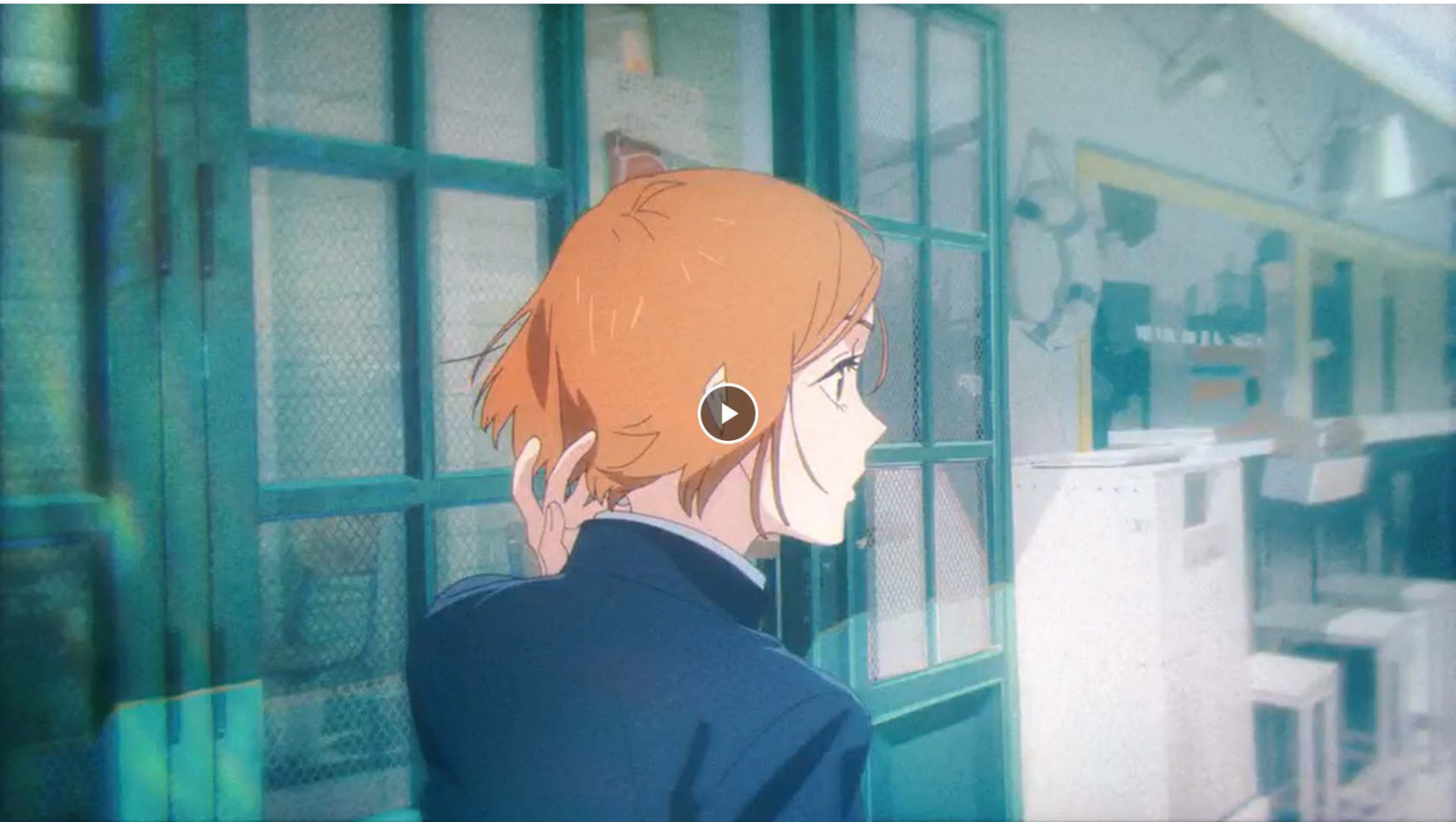


Exhibit 4



- ホーム
- 話題を検索
- 通知
- メッセージ
- リスト
- ブックマーク
- コミュニティ
- プレミアム
- プロフィール
- もっと見る

ポストする

← ポストする



WerLeaks
@WERLeaks

WER 4K



午後10:15 · 2023年8月31日 · 1,829 件の表示



↻ 4

♡ 14



返信をポスト

返信

検索

関連性の高



WerLeaks
@WERLeaks
WER 4K

いまだうし

ビジネス・金融・
#TOBE
8,477 posts

政治・トレンド
政権交代
32,523 posts

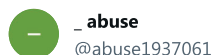
ビジネス・金融・
#プライムビテ
6,969 posts

エンターテイン
後藤輝基

日本のトレンド
ヘイロー
1,745 posts

さらに表示

利用規約 プライ
Cookieのポリシ
もっと見る ...



_abuse
@abuse1937061

...

Exhibit 5



ホーム



話題を検索



通知



メッセージ



リスト



ブックマーク



コミュニティ



プレミアム



プロフィール



もっと見る

ポストする



ポストする



検索



Ducky
@IDuckyx



Jujutsu Kaisen Season 2 new Opening.

The opening doesn't start right away, after like 5 minutes into the episode.

[ポストを翻訳](#)



午後10:39 · 2023年8月31日 · 6.8万 件の表示



10



232



2,934



47



返信をポスト

返信



jyv 🍉 🇺🇸 @NORBOLOGY · 2023年8月31日
they're about to go crazy



1



65



2,169



Asberhug 🇺🇸 @Asberhug · 2023年8月31日
Beautiful 🥰



10



1,305



_abuse
@abuse1937061



olivia @mikasqvs · 2023年8月31日
UGH THE GOJO AND KENJAKU 🤔



関連性の高



Ducky
@IDuckyx
Jujutsu
Picture

いまどうし

#MEデビュー
きっと未来に伝
える。GalaxyS24
WEB動画を公開
NTTドコモに

日本のトレンド
緊急事態宣言
28,028 posts

日本のトレンド
#あなたが一番
6,652 posts

食べ物・トレンド
#マクドナルド
トレンドトピック

ニュース・トレ
談話捏造
6,177 posts

[さらに表示](#)

利用規約 プライ
Cookieのポリシ
もっと見る ...



ホーム



話題を検索



通知



メッセージ



リスト



ブックマーク



コミュニティ



プレミアム



プロフィール



もっと見る

ポストする



ポストする



Ducky
@IDuckyx

Couple of shots from the new ending

The main trio walks around the city and takes pics

[ポストを翻訳](#)



午後10:55 · 2023年8月31日 · 5.7万 件の表示



8



351



2,509



52



返信をポスト

返信



jyv 🍉🐦 @NORBOLOGY · 2023年8月31日
NOBARA 🥺🥺🥺



26



1,856



Jahkyi J @JacobJa01138806 · 2023年8月31日
It's gonna hit hard when that episode comes 🤔



10



1,146



DMM GAMESプロモーション公式 🐦 @dmmolg_mkt
好評配信中。

DMM GAMESで
呪術廻戦 ファントムパレードが遊べる！



_abuse
@abuse1937061



検索

関連性の高



Ducky
@IDuckyx
Jujutsu
Picture

いまどうし

#MEJデビュー
きつと未来に伝
る。GalaxyS24
WEB動画を公開
NTTドコモに。

日本のトレンド
緊急事態宣言
28,028 posts

日本のトレンド
#あなたが一番
6,652 posts

食べ物・トレンド
油淋鶏チーズ
トレンドトピック

食べ物・トレンド
#マクドナルド
トレンドトピック

さらに表示

利用規約 プライ
Cookieのポリシ
もっと見る ...

Exhibit 6

X

Home

Explore

Notifications

Messages

Grok

Lists

Communities

Premium

Profile

More

Post

← Post

『呪術廻戦』アニメ公式

@animejujutsu

「#宵祭り」

線画デザインビジュアル公開

京都校の#メカ丸こと#与幸吉は

#究極メカ丸絶対形態に乗り込み

真人との激戦を展開!!

「会うんだ!! 皆に!!」

第31話「宵祭り」

9/7 (木)23:56より

MBS/TBS全国28局にて放送!!

#呪術廻戦 #jujutsukaisen

Translate post

6:00 PM · Sep 1, 2023 · 3.8M Views

171

13K

78K

498

Post your reply

Reply

caius

@caiusonmute · Sep 1, 2023

血を沸かす🔥🔥🔥

caius

@caiusonmute · Sep 1, 2023

OPテーマ : Season 2 - Shibuya Arc!🔥

『#呪術廻戦』

『#渋谷事変』

『#JujutsuKaisen』

Search

Relevant people

『呪術廻戦』アニメ公式

@animejujutsu

Follow

TVアニメ『呪術廻戦』の公式X (旧Twitter)。続編「#死滅回游」制作決定!!TVアニメ第1期/第2期、『劇場版呪術廻戦 0』は各公式HPに記載の配信PFにて配信中!そして、Blu-ray & DVDも発売中!推奨ハッシュタグ: #呪術廻戦 #劇場版呪術廻戦0 ※原則個別リブライは行っておりません。

What's happening

#This_is_おいしいZERO

クイズに正解した1000人に〇〇が当たる!?

Promoted by お口の恋人 ロッテ/LOTTE【公式】

Trending in Japan

作者の顔

18.8K posts

Technology · Trending

LINEの新機能

13.8K posts

Trending in Japan

念願のデズニー

6,749 posts

Arts & culture · Trending

Wacom

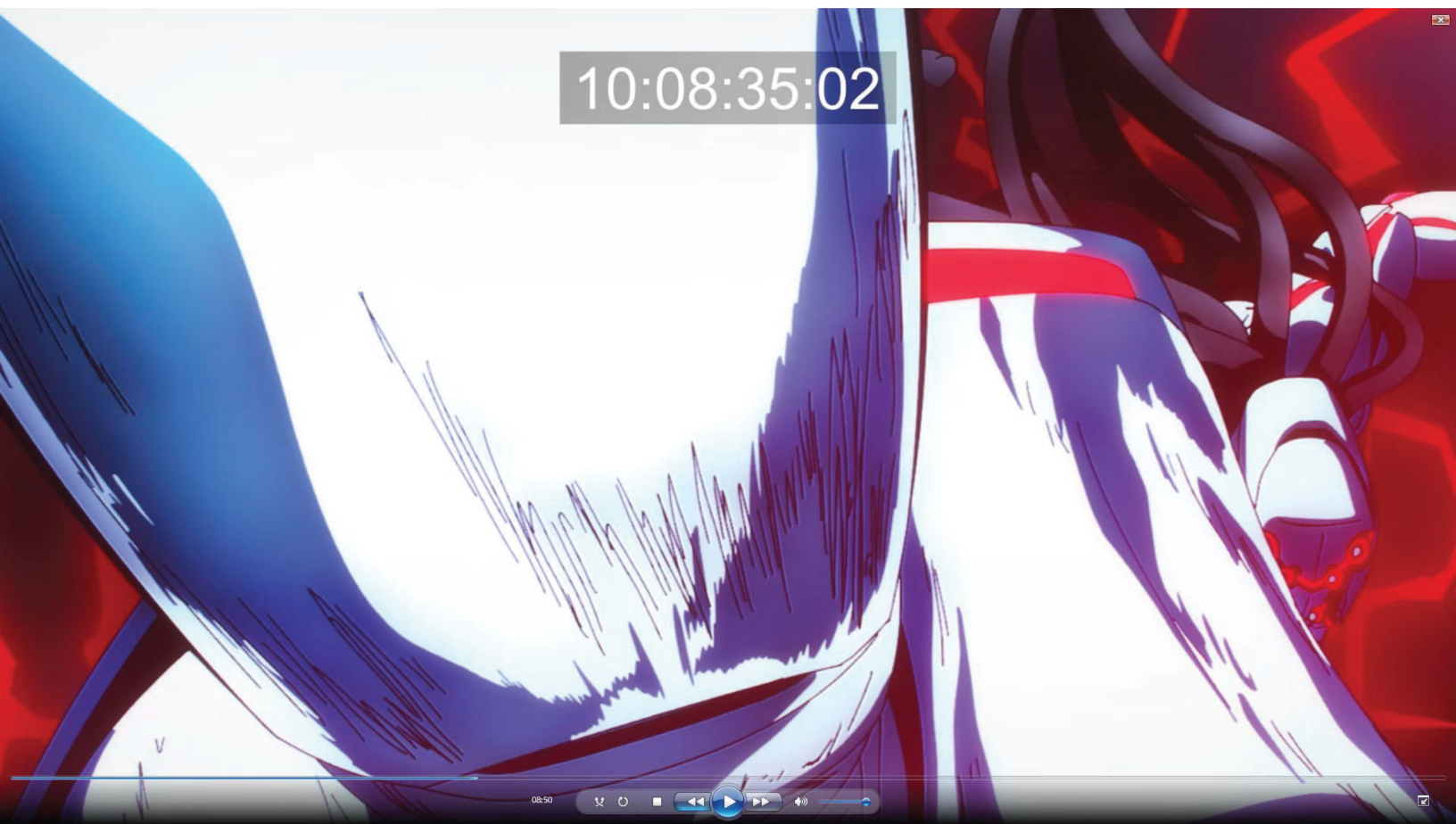
13.1K posts

Show more

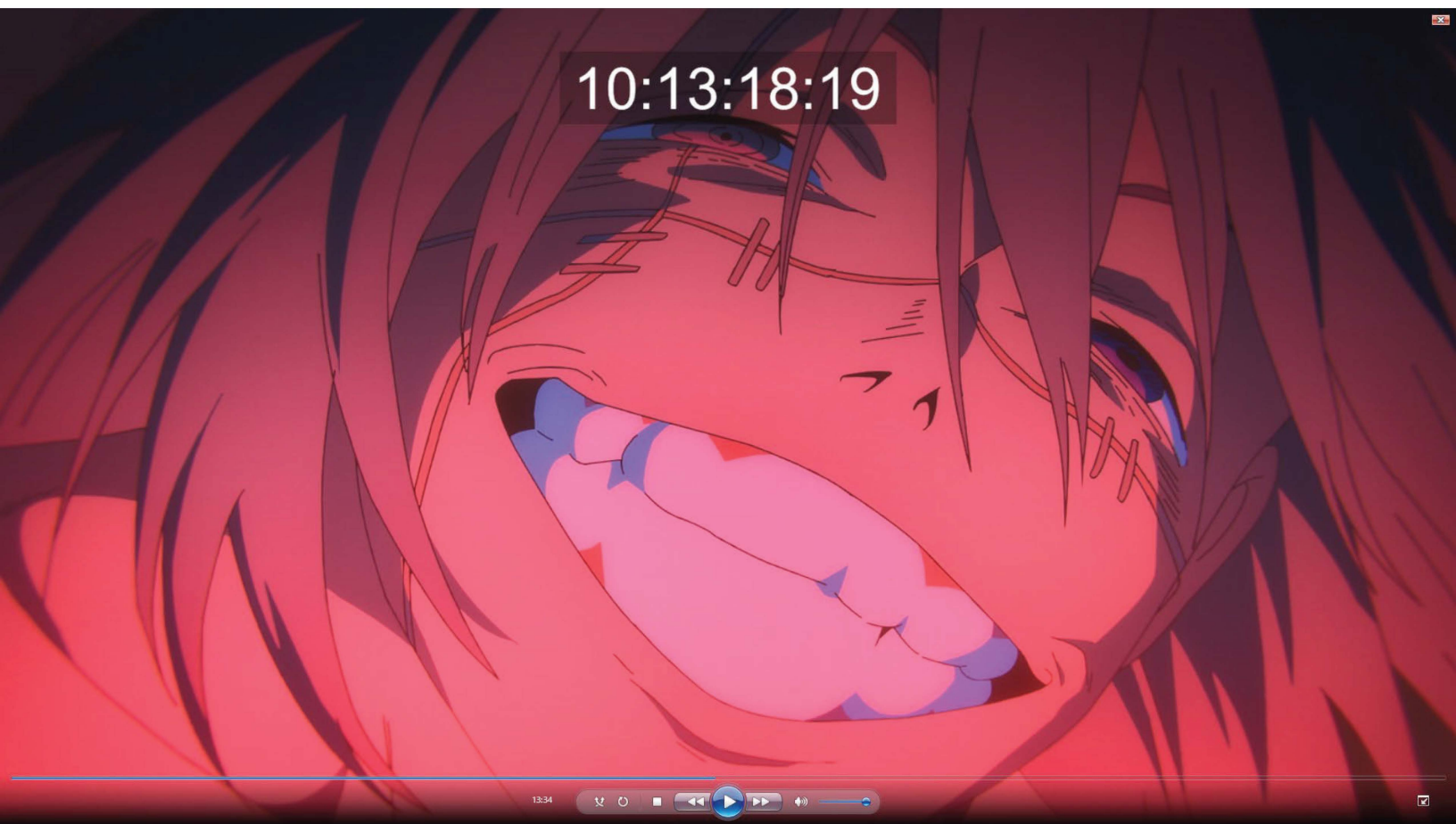
Terms of Service Privacy Policy Cookie Policy Accessibility Ads info More ... © 2024 X Corp.

Exhibit 7

















10:20:01:11

20:14 東京都渋谷区

Exhibit 8



#JKSpoilers #JUJUTSUKAISEN 
SHIBUYA!



午前8:33 · 2023年9月7日 · 7,557 件の表示

4 リポスト 1 件の引用 165 件のいいね 3 ブックマーク



d0nut ⚡
@xDonutW

...

#JKSpoilers #JUJUTSUKAISEN 🧑

1 hour to go 🤔



午後10:56 · 2023年9月7日 · 4,275 件の表示

14 リポスト 199 件のいいね 12 ブックマーク